

## **REMARKS**

### **Overview**

Claims 1, 3-4 and 9-11 are pending in this application. None of the claims have been amended, the claims in their present form patentably distinguish over the cited art. The present response is an earnest effort to move the case to allowance. Reconsideration and passage to allowance is therefore respectfully requested.

### **Claim Rejections**

Before discussing specific rejections or references cited, Applicant takes this opportunity to discuss important features of the present invention. The present invention is different from the prior art in terms of selecting a virtual health care network. The health care network ultimately chosen for each state is selected based upon both a disruption analysis and a cost analysis -- an aspect of the invention which is nowhere disclosed or suggested in the prior art. The disruption analysis looks at various measures of how much participants are currently using a particular health care network, as one of the goals of the present invention is to create a virtual network that maximizes the largest number of member health care providers already utilized by participants. In addition to a disruption analysis, the present invention also contemplates a cost analysis to compute projected health care cost savings. The combination of these features distinguishes the present invention from anything cited by the Examiner.

Based upon a review of the prior Office Action, it appears that the Examiner may have miscomprehended one or more features of the present invention in applying the cited references to the proposed claims. To be sure, words and phrases like "cost savings," "utilization," and "cost-efficiency" are ubiquitous in the literature in discussions regarding health care networks.

However, the present invention is directed to a particular method of creating virtual health care networks. As such, it is important to go beyond general references to specific teachings in the cited references. Under such an approach, none of the primary references -- Lockwood et al., Goodroe et al., and Leonard -- can be used to support a *prima facie* case of obviousness. Following is a discussion that highlights various deficiencies in the primary references relied on by the Examiner.

#### **Lockwood et al.**

Lockwood et al. is focused upon monitoring and assessing the performance of health-care providers based on the severity of sickness episodes treated by the health-care providers. Lockwood et al. is not directed toward the creation of a virtual health-care network based on both a disruption analysis and a cost analysis.

As part of the disruption analysis, claim 1 describes network utilization in the context of the present invention and how it is computed: "computing measures of network utilization for each of the networks using a computer, wherein the measures of network utilization comprise number of the participants who utilize the health care providers in the network, a percentage of the participants who utilize the health care providers in the network, a measure of total health care costs in the network, and a measure of a percentage of health care costs in the network."

The Examiner cites two excerpts from Lockwood et al. as purportedly disclosing the recited step in claim 1. The first is at column 4, lines 29-52, which provides as follows:

In addition to these budgetary functions, it would be desirable for the comprehensive monitoring system to have the ability to track the quality of care being delivered by the network as a whole in specific medical areas. For example, it is generally accepted that well-baby visits are beneficial both in maintaining the health of infants and in reducing overall health care costs. Thus, it would be

desirable for the comprehensive monitoring system to be able to identify the percentage of infants in the network that are receiving well-baby care, so as to provide an objective measurement of the quality of health-care being delivered to infants in the network. Other objective measurements that would be useful for monitoring the quality of health-care delivered to patients by the network as a whole might include, for example, the percentage of diabetic patients in the health-care network receiving annual eye examinations and the percentage of female patients in the network receiving annual mammograms. It would be useful if such a system for objectively monitoring the quality of care being delivered by the network was coupled to the budget monitoring system described above, so that a network administrator could quickly and easily assess whether budgetary overruns are due to failures by the network's providers to provide the requisite quality of care level to patients in the network.  
(Lockwood et al., column 4, lines 29-52) (emphasis added).

Here, Lockwood et al. discusses measures of network utilization. However, it is not the same types of utilization measures recited in claim 1. First, Lockwood et al. is focused on tracking the quality of care delivered by the network in specific medical areas, as opposed to network utilization as a whole. Second, Lockwood et al. discloses identifying the percentage of participants in the network that are receiving a particular type of care. In stark contrast, the present invention for purposes of the disruption analysis seeks to identify the number of persons who are actually in the network, as well as the total measure of health care costs in the network. Put another way, Lockwood et al. is focused on how participants in a network utilize specific services provided; whereas, the present invention for purposes of the disruption analysis looks at whether the person is even in the network and, if so, the level at which they utilize services in the network.

The Examiner also cites Lockwood et al. at column 15, lines 30-67, as supposedly disclosing the same network utilization methodology as recited in claim 1. However, this excerpt from Lockwood et al. fares no better. Here, Lockwood et al. discloses assessing the cost-efficiency "of individual health-care providers within a group of health-care providers" by

comparing charges for common procedures performed by the individual health-care providers. In contrast, the present invention as described in claim 1 seeks to obtain a measure of total health care costs in the network and a percentage of health care costs in the network. This information again is used as part of the disruption analysis, which is nowhere disclosed or suggested in Lockwood et al. Rather, Lockwood et al. looks at and compares cost between individual health care providers in the same network, which is not germane to the present invention.

Claim 1 also describes "selecting one or more of health care networks per state having a highest projected savings from the reduced number of health care networks for each state to thereby further reduce the number of health care networks associated with each state." Here, the Examiner cites Lockwood et al. at column 14, lines 18-65. However, the excerpt from Lockwood et al. does not correspond with the claim limitation. Lockwood et al. discusses comparing "benchmarks that are used for assessing the relative performance of individual health-care providers with a group of health care providers," not making the selection among competing health care networks in each state.

In addition to the deficiencies identified above, the Examiner aptly recognizes that Lockwood et al. does not disclose several other limitations in claim 1. (See Office Action, pages 1, 3, 6 and 7). Any reliance upon Lockwood et al. to support an obviousness rejection of claim 1 is therefore inapposite.

#### **Goodroe et al.**

Once the measures of network utilization are computed, claim 1 describes the step of "selecting one or more health care networks for each state based on the measures of network utilization to provide a reduced number of health care networks for each state." The Examiner

cites Goodroe et al. at page 2, paragraphs 0020-0021, as purportedly disclosing this feature of the invention. We disagree. In the cited portions of Goodroe et al., the reference describes the ability to compare and distinguish one medical facility and one doctor from another based on various "benchmarks." There is no reference to comparing different health care networks. Moreover, the present invention is not focused on benchmarks as a means of comparison. Goodroe et al. does therefore not teach what is described in claim 1.

Claim 1 also describes the step of "predicting future health care savings for one or more of the networks" in a particular state. The Examiner cites Goodroe et al. at page 1, paragraph 0005. However, Goodroe et al. simply generally refers to measuring the operational efficiency and effectiveness of "a clinical practice" by using established benchmark characteristics. Again, there is no disclosure or suggestion of projecting future health care savings for one or more networks.

In addition, Goodroe et al. is further deficient, as the Examiner has recognized that Goodroe et al. does not disclose various other limitations of claim 1 (Office Action, pages 4, 6, 7).

## **Leonard**

The following step of claim 1 captures the essence of the present invention:

"Forming a virtual health care network from the one or more health care networks per state having the highest projected savings to thereby maximize health care savings while minimizing inconvenience to participants in changing health care providers for participants in the virtual health care network."

Here, both the result of the disruption analysis and cost analysis come together and form a virtual health care network. The Examiner relies on Leonard at page 1, paragraphs 1-3, as

purportedly disclosing this feature of claim 1. The portion of Leonard cited by the Examiner is reproduced below:

Online technology is radically transforming the way that we conduct business, and the health care system is now in the middle of the information revolution. While traffic to health information sites is growing, e-commerce entrepreneurs are now examining ways to alter the health service market -- going beyond providing information and into creating full-service health benefits web sites.

These entrepreneurs are creating virtual preferred provider organizations (PPOs) or health maintenance organizations (HMOs), providing services from procuring health insurance to locating health care providers to administering claims. By delivering these services online, these companies can build large customer bases quickly and develop benefits offerings unique to the online environment.

"In this intensely competitive job market, employers know that they cannot drop or severely limit the benefits they provide," says Connie Rank-Smith, SPHR, vice president of human resources for Jewelers Mutual Insurance in Neenah, Wis. "So they are searching for ways to offer benefits more efficiently and at a lower cost to their employees. And the Internet is providing some interesting options here."

Applicant respectfully submits that the subject portions of Leonard relied on by the Examiner are nothing more than general references to creating virtual health care organizations. There is no reference to a disruption and cost analysis. Leonard quotes others as remarking that companies are "searching for ways to offer benefits more efficiently and a lower cost to their employees," but there is no enabling disclosure for a proposed solution, much less the method of creating a virtual health care network as specifically recited in claim 1.

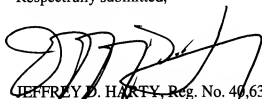
## **Conclusion**

As none of the primary references relied on by the Examiner support a *prima facie* case of obviousness, the Applicant respectfully requests reconsideration and allowance of the pending

claims. If the Examiner has any questions regarding the case, the Examiner is invited to contact the under-signed counsel.

No other fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeffrey D. Harty', is written over the printed name and firm information.

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